

REMARKS

Prior to the present amendment, claims 1-38 were pending in the present application. By the present amendment, claim 39 has been added and claim 22 has been cancelled. Therefore, claims 1-21 and 23-39 are pending in the present application. Claims 1 and 23 have been amended to recite that the at least one connector is connected to the at least one bioabsorbable spacer by “contacting the outer surface of the at least one bioabsorbable spacer” and that the connector is “constructed of the patient’s own tissue.” Support for this claim amendment can be found on page 5, paragraph 19 and in original claim 22, which has been canceled since the subject matter of claim 22 has been incorporated into claim 1. Claims 1-11 and 22-32 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by U.S. Patent No. 6,007,580 to Lehto (“Lehto”).

Applicants submit that Lehto does not teach or suggest a connector that is constructed of the patient’s own tissue and connected to a bioabsorbable spacer by contacting the outer surface of the spacer. When Lehto mentions a fixation part being constructed of a patient’s own tissue, Lehto specifically states that the fixation part penetrates the spacer. Specifically, Lehto states:

[t]he fixation part can also be constructed of the patient’s own fibrous tissue, such as cord or ligament tissue, by placing a sufficiently long part of a cord or ligament to extend from one bone to be joined to the other, in a manner that the spacer part is placed between the bones and the cord or ligament penetrates the spacer part.

Therefore with regards to a connector constructed of a patient’s own tissue, rather than being connected to the spacer by contacting the outer surface of the spacer, the connector is connected to the spacer by penetrating the spacer. As noted by the specification of the present application, “because the connector maintains the position of the joint spacer in the joint cavity by contacting the outer surface of the spacer, there is no need for the connector to penetrate the joint spacer, thus eliminating the risk of damage of the joint spacer or connector.” Paragraph 19. As such, Applicants submit that Lehto does not anticipate the present claims and Applicants request withdrawal of this rejection.

PATENT
Response to Office Action
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CONCLUSION

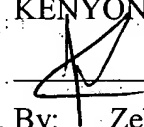
It is respectfully submitted that the present application is now in condition for allowance, which action is respectfully requested. The Examiner is invited to contact Applicants' representative to discuss any issue that would expedite allowance of the subject application.

Any fees for extension(s) of time or additional fees that are required in connection with the filing of this response are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is authorized to charge any such required fees or to credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

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